

Appl. No. : 09/785,044
Filed : February 14, 2001

REMARKS

Claims 1 and 11 are amended by this paper. Claims 2-10 and 12-52 are unchanged. Claims 1-52 are pending in the application. Entry of the above amendments and withdrawal of the rejections under 35 U.S.C. §§ 101 and 112 are respectfully requested.

Discussion of the Rejections Under 35 U.S.C. § 101

Claims 1-52 were rejected under 35 U.S.C. § 101 as being directed to non-statutory matter.

Independent Claims 1 and 11 have been amended such that the final result is a diagnosis, rather than a reuse of objects. This is stated in the amended preamble of Claims 1 and 11. The tangible requirement does not necessarily mean the claim must either be tied to a machine or must operate to change articles to a different state or thing. Rather a showing of a practical application to produce a real-world result satisfies the requirement. A diagnosis is a useful, tangible, and concrete result as required by 35 U.S.C. § 101. Particularly, a diagnosis has real-world value to, for example, the patient receiving the diagnosis.

Claim 6 recites in part, “[a]n object based automated computer-implemented diagnostic system.” Being a computer-implemented system, the claim satisfies the requirements of 35 U.S.C. § 101 as being a machine. The features of the claim include “in a computer-based medical diagnostic system so as to output a diagnosis of a patient” further supporting the satisfaction of the requirement. The computer-implemented diagnostic system is a machine that outputs a diagnosis of a patient and thus provides a useful, tangible, and concrete result as required by 35 U.S.C. § 101.

Similarly, Claim 9 includes the feature “in a computer-based medical diagnostic system so as to output a diagnosis of a patient” which thus satisfies the requirements of 35 U.S.C. § 101.

Claims 2-5, 7-8, 10, and 12-52 depend either directly or indirectly on the independent Claims 1, 6, 9, and 11, and thus also satisfy the requirements of 35 U.S.C. § 101. In light of the above amendments and arguments, withdrawal of the rejection of Claims 1-52 under 35 U.S.C. § 101 is respectfully requested.

Discussion of the Rejections Under 35 U.S.C. § 112

Claims 48-49 and 51-52 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that the specification,

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on cited pages 12-13, does not support one disease object directly invoking another disease object. Paragraph [0086], located on pages 11-12 of the originally filed specification states, with emphasis added, “One key concept of the OB [object-based] method is to think of disease and symptom objects as representing the medical experts inside the computer. If we ask the Appendicitis Disease Object to look at a patient, the object looks at the patient data, notes that the patient does indeed complain of abdominal pain and nausea—but then “notices” the appendectomy scar! Obviously, appendicitis can be ruled out, but instead of shrugging its shoulders and giving up, the Appendicitis Disease Object now invokes another disease object that is an expert in, say, Small Bowel Obstruction. That object takes a look, asks some questions, and passes the patient on to still other disease objects. In effect, a huge number of diagnostic experts are gathered at the patient’s bedside, and each object gets a turn at evaluating the patient data in terms of its own symptom pattern.”

Thus, in the present specification, an example is given of one disease object directly invoking another. The concept is further supported in other parts of the specification in describing the nature of the object-based method and the interactions of objects. In light of the above remarks, withdrawal of the rejection of Claims 48-49 and 51-52 under 35 U.S.C. § 112 is respectfully requested.

Dependent Claims

Although Applicant has not addressed all the issues of the dependent claims, Applicant respectfully submits that Applicant does not necessarily agree with the characterization and assessments of the dependent claims made by the Examiner, and Applicant believes that each claim is patentable on its own merits. The dependent claims are dependent either directly or indirectly on one of the above-discussed independent claims. Applicant respectfully submits that pursuant to 35 U.S.C. § 112, ¶4, the dependent claims incorporate by reference all the limitations of the claim to which they refer and include their own patentable features, and have therefore been improperly rejected under 35 U.S.C. §§ 101 and 112. Therefore, Applicant respectfully requests the withdrawal of the claim rejections.

No Disclaimers or Disavowals

Although the present communication includes alterations to the application or claims, or

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characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present amendments.

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CONCLUSION


In light of the above amendments and remarks, withdrawal of the outstanding rejections under 35 U.S.C. §§ 101 and 112 are specifically requested. If the Examiner finds any impediment to entry of the above amendments or requested withdrawal of rejections that can be resolved by telephone, the Examiner is respectfully requested to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 12/6/02

By: 

John M. Carson
Registration No. 34,303
Attorney of Record
Customer No. 20,995
(619) 235-8550

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